IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE
Civil Writ Petition No.998 of 2007

Smt. Asha Wadilal Shah @ Dalvi — Petitioner
Vs.
Kundanlal Chunilal Khivnsara & ors. — Respondents

Mr.Indrayani Koparkar i/b. Mr.N.P.Deshpande for petitioner.

Mr.A.M.Pungalia for respondent nos.2(a) and 2(b)

CORAM: B.H.MARLAPALLE, J.

June 14, 2007.

P.C.

. Heard Mrs.Koparkar holding for Mr.Deshpande, the learned counsel for the petitioner-tenant and perused the affidavit filed by Shri Sachin Ashok Agarwal, respondent no.2(b) for himself and on behalf of the other respondents. In the additional affidavit it has been stated that the first floor which is in occupation of the petitioner is not going to be demolished though the respondents have undertaken construction of other two buildings situated at CTS No.373/B + C of Shanivar Peth, Pune. It has been further clarified that the third building proposed is going to come up in place of the building in which the petitioner is occupying the first floor partly. It has been further pointed out that the

third floor of the petitioner's building has been demolished. In the said additional affidavit the following undertaking has been furnished:

> "We always assured her and we hereby also undertake that if any damage is caused to her premises we will get them repaired at our own cost. The roof of third floor is already opened up for new development but because of the pendency of this litigation we have stopped further work which is likely to cause some leakage even in the premises of the petitioner".

It has been further stated that the respondents have assured the petitioner that no damage will be caused to her premises and in case of any damage it would be repaired by the respondents at their own costs.

. In view of this undertaking, the apprehension expressed by the petitioner need not be taken into consideration to entertain this petition.

. The undertaking furnished by the respondents in the additional affidavit is hereby noted and the

petition is disposed on the basis of the said undertaking.

. If the petitioner communicates to the respondents the damages caused to her premises in the process of demolition of remaining floors within a period of one week from today, the respondents shall undertake those repairs at their own costs, at the earliest.

(B.H.MARL